

OGC Has Reviewed *Bro. 11*

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Date: *12-18-78*

Support

By: *35*

MEMORANDUM FOR: Assistant Deputy Director/Support

SUBJECT: Constitution and Bylaws of the Government Employees' Health Association

1. In accordance with the request contained in your memorandum of 16 March 1955, I have examined the Constitution and Bylaws of GEHA and have found a number of peculiarities in this document. Possibly, this can be corrected by the Directors, but it would be preferable to have an extensive revision approved by the membership of the association at a special meeting called for the purpose or at its next annual meeting.

2. The most serious deficiencies in the Constitution and Bylaws appear to be as follows:

- a. Article III, Section 1 states that any employee of CIA may be a member. Section 2 of the same article, however, provides that the Board of Directors may reject an application for membership. I have no basis for forming an opinion as to which of these inconsistent provisions is the more desirable but suggest that the inconsistency should be removed.
- b. Article V provides for alternative authority to enter into insurance contracts. Since the sole purpose of the association is to secure insurance coverage, I suggest that provision be made that such contracts must be approved by the Board of Directors. Section 1 of Article V therefore might be amended to read as follows:

"The Board of Directors may authorize the appropriate officers of the Association to enter into contracts of insurance of the membership as a group on such terms as the Board may consider to be the most advantageous available having due regard to the reliability of the company or companies concerned."

- c. Article VI, Section 2 should provide for a definite period of advance notice to be given to the members. I suggest that a new sentence be added to Section 1 reading as follows:

"Written notice of the time and place of the annual meeting shall be delivered or mailed to each member not less than 30 days before the date set for the said meeting".

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- d. Section 2 of Article VI provides that nomination for membership on the Board of Directors shall be dispensed with. In view of the size of the association and the scattering of members throughout the world, it seems to me that there should be a slate of nominees from which selections can be made with the additional right of members to cast write-in ballots. The following language is suggested in lieu of Section 2:

"The Board of Directors shall include with the notice of the annual meeting provided in Section 1 hereof, the agenda and nominations for membership on the Board of Directors. Any candidate nominated by a petition signed by not less than 10 members of the association shall be included in said list of nominations. Voting shall be by ballot at the annual meeting, the ballot box to be kept open until all present have had an opportunity to vote. Any member may vote in person or by written proxy for any person who is a member of the association. Proxies sent by radiogram, telegraph, or cable shall be considered to be written proxies."

- e. A period of notice of special meetings should be provided in Section 3 in lieu of "suitable" notice. I suggest that the last sentence of Article V, Section 3, be amended to read as follows:

"Written notice of the time, place and purpose of each such meeting shall be delivered or mailed to each member not less than 15 days before the date set for such meeting."

Section 5 of the same Article should be amended by adding: "On written notice delivered or mailed to each member not less than 15 days before the date set for such meeting".

- f. I do not find any statement of the number of Directors making up the Board. An appropriate place to specify this number would be at the beginning of Article VII, Section 1. I suggest the following language:

"The number of Directors constituting the Board of Directors shall be 5 who shall be members of the association."

- g. No period of notice is stated for Directors meetings. An appropriate place for such provision would be at the beginning of the 3d sentence in Section 3 of Article VII. The following wording would be appropriate:

"Not less than 5 day's".

A grammatical error appears in the last sentence of Section 3, Article VII, which provides that any meeting at which all of the Directors are present and/or at which absent Directors "shall have given notice", the word "been" should be inserted between the words "have" and "given".

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- h. No provision is made for accumulation of a reserve or distribution of surplus funds although there is a provision for investment of surplus. Not having seen the contract with the underwriting company, I do not know what provision there is for reduction or refund of premiums. I assume there must be such a provision for otherwise no surplus could be acquired since under Article IV, Section 2, it is provided that the dues shall be determined by the terms of the contract between the association and the underwriting company. The only other source of funds would appear to be the membership fees. In this connection it should be added that there appears to be no express authority to pay administrative expenses of the association, if any. To cover these points, I suggest a new section in lieu of Article IX, Section 1 to read as follows:

"The Board of Directors shall have authority to pay all reasonable expenses of administration out of the general funds of the association, to establish a reasonable reserve for administrative expenses and contingencies, to invest and re-invest surplus funds of the association in accordance with the laws of the District of Columbia pertaining to the investment of trust funds and to distribute such surplus among the membership from time to time by cash payment, by forgiveness of dues, or a portion thereof, or in such other manner as may to the Board seem reasonable and equitable."

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Assistant General Counsel

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